

## COMMERCE COMMISSION ORDINANCE

Ordinance # 05-150-05

### Article I. Purpose; Findings

1.01. *Purpose.* The Little River Band of Ottawa Indians has determined that it is in the best interests of its members to establish a Commerce Commission to promote diversification of the Tribal economy, entrepreneurial efforts of Tribal members and to provide oversight and policy supervision to the Department of Commerce and programs administered by that Department and to develop policies that ensure an effective utilization of Tribal resources and financial opportunities as they may become available.

1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds:

- a. That the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility to govern the conduct of members of the Little River Band and other persons within its jurisdiction; and to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members. Article IV, Section 7(a).
- b. That diversifying the Tribal economy is essential to increase Member's job opportunities, which in turn provides for the peace, and general welfare of the Tribal members;
- c. That there is a need for an entity of the Tribe equipped to deal with the task of designing business development policies and its implementation.

### Article II. Adoption; Amendment; Severability

2.01. *Adoption.* This Ordinance is adopted by Resolution # 05-113-640.

- a. This Ordinance is amended by Resolution # 06-1129-798.

2.02. *Amendment.* This Ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

2.03. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

### Article III. Definitions

3.01. *General.* For purposes of this Ordinance, certain terms are defined in this Article. The word "shall" is always mandatory and not merely advisory.

3.02. *Commission* means the Commerce Commission as created in this Ordinance, with the powers and authority vested therein pursuant to this Ordinance.

3.03. *Commissioner* means a member of the Commerce Commission.

3.04. *Federal government* includes the Bureau of Indians Affairs, the United States Department of Commerce, the United States Small Business Administration, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

3.05. *Business development services* means any service provided to Tribal members by the Department of Commerce within the framework of the Department of Commerce Ordinance.

3.06. *Area of service* means the area where the Tribe provides services and that encompasses the area known as the Nine-county area, covering Manistee, Wexford, Mason, Lake, Oceana, Newaygo, Muskegon, Kent and Ottawa counties in the State of Michigan.

### Article IV. Commerce Commission

4.01. *Creation of the Commerce Commission; General Authority.* There is hereby created the Commerce

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Commission for the purposes described in Article I of this Ordinance. The Commerce Commission is charged with reviewing program applications as provided for under Tribal law, adopting business development policy, and approval of departmental policies, procedures and forms of the Department of Commerce, and shall exercise the powers and authorities described in this Ordinance or as may be designated by separate Ordinance.

**4.02. Membership.**

- a. The Commission shall consist of five commissioners appointed according to the Constitution and the Commissions Ordinance.
- b. Any person 21 years of age or older may be nominated for appointment to the Commission. A commissioner may be a member or non-member of the Tribe, provided that no more than one of the five commissioners may be a non-Tribal member. Special preference will be given to persons who have had business experience or are currently involved in business development, ownership, management, and/or academics.
- c. No person shall be barred from appointment to the Commission because they are Department of Commerce program beneficiaries, and such commissioner shall be entitled to fully participate in the manner established by the By-Laws. Disclosure of any potential conflict of interest, even if the potential conflict is only in appearances, is required.

**4.02a. Transition from Small Business Incentive Program Task Force.** The members of the Small Business Incentive Task Force holding office as of adoption of this ordinance shall be transferred as members of the Commerce Commission. Transferred members shall be identified by the Ogema, as holding 2 or 4 year terms, upon the conclusion of which, if re-appointed, the member shall hold a regular term of office.

**4.03. Terms of Office.** The term of office for members of the Commission shall be limited as follows:

- a. *Commissioners.* The term of office of a commissioner shall be four years.
- b. *Officer.* The term of office for an officer shall be one year. A commissioner may be elected to successive years in the same office.

**4.04. Removal.** In addition to the reasons for removal from office as set forth in the Commissions Ordinance, a commissioner may be removed for the following additional reasons.

- a. Conviction of a felony in Tribal, State, or Federal court during a term of office, unless such conviction stems from performance of a legal duty to the Tribe;
- b. Fraud, conspiracy to commit fraud or material misrepresentation, or malfeasance in the performance of duties and responsibilities under this Ordinance.
- c. Non disclosure of information that may reveal a conflict of interest as stated in 4.02(c).-

**Article V. Meetings of the Commerce Commission**

**5.01. Public Informational Meeting.** The Commission shall have a public informational meeting, to be held at a large, centrally located facility, at least one time per year at such a date, time, and location as may be designated by the Commission, subject to the following requirements:

- a. The agenda of the meeting shall be informational in nature.
- b. The Commission shall be required to convene a quorum at the meeting.
- c. Substantial time shall be set-aside at each such meeting to permit the Tribal membership the opportunity to provide input on any aspect or issue which is relevant to the purposes and authority of the Commission.
- d. Notice of such meeting shall be published in the Tribal newspaper no later than two weeks before the meeting, the notice to set forth the place, date, time, and duration of the meeting and the agenda for the meeting.
- e. Complete minutes of the meeting shall be taken and retained, and shall become a part of the

regulatory history of the Commission.

5.02. *Regular Meetings.* Regular meetings of the Commission shall be held at least once each month for the purpose of conducting the business of the Commission. Regular meetings shall be subject to the following requirements:

- a. Notice of such meetings, including the date, time and location, shall be provided in the annual publication of meeting dates.
- b. Changes to the date, time, or location of any meeting shall be presented to each commissioner at least 14 days before the date of the meeting change.
- c. Meeting notice shall be deemed to be provided upon adoption of the annual publication of meeting dates. Changes to any meeting date, time, or location shall be deemed noticed by personal notice to the commissioners or may be sent by telefax or e-mail.
- d. Each commissioner shall have a vote on all issues to be decided by the Commission.
- e. The Commission shall take no official action unless a quorum is present. A quorum of the Commission shall consist of one officer and at least two other commissioners.
- f. Complete minutes of such meetings shall be taken and the open session minutes shall be attached to a Commission monthly report to the Tribal Council. A Tribal member may obtain access to Commission minutes by making a request to the Tribal Council Recorder.

5.03. *Special Meetings.* Special meetings of the Commission shall be held as needed upon the directive of the Chairperson or any two commissioners upon receipt of 24 hours notice in writing delivered to all members of the Commission.

- a. Notice shall be deemed to be provided upon being sent by telefax or e-mail.
- b. All other provisions applicable to regular meetings shall apply to special meetings of the Commission.

5.04. *Conduct of Meetings.* Regular and special meetings shall be conducted pursuant to the following additional rules:

- a. It shall be the standard that all meetings of the Commission shall be open to all members of the Little River Band of Ottawa Indians; however, the Chairperson or a majority of the commissioners present may direct all or a portion of a regular or special meeting to be closed to everyone except designated participants, when such closed meeting is necessary to deal with personnel issues or to discuss any matters deemed to require a closure.
- b. Minutes of all regular and special meetings of the Commission shall be kept on permanent file in the offices of the Tribal Council, and shall be available for inspection by any member of the Little River Band of Ottawa Indians upon reasonable advance notice; provided, however, that as to any closed meeting or closed portion of a meeting, the minutes shall merely reflect that a closure took place.
- c. Minutes of all closed meetings or closed portions of meetings of the Commission shall be transcribed and shall be kept on permanent file in the confidential files of the Commission. Such minutes may be released only upon a majority vote of the Commission explicitly authorizing such release.

## **Article VI. Powers; Regulations**

6.01. *Primary Responsibilities.* The primary responsibilities of the Commission shall be:

- a. To implement the provisions of this Ordinance and all Ordinances governing economic development activities for which the Commission has been delegated responsibility, through the development and adoption of regulations governing business entities, Tribal member's entrepreneurial activities, job development activities and management of Tribal records. Regulations

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shall be approved by the Tribal Council and be in compliance with any Ordinance promulgated regarding adoption of regulations.

b. To enact regulations necessary to implement federal and state economic development agreements assigned to the Commission for oversight responsibility. Such regulations shall be approved by the Tribal Council or in accordance with any Ordinance promulgated regarding adoption of regulations.

c. To enact regulations necessary to implement policies aimed to diversify the Tribal economy. Such regulations shall be approved by the Tribal Council or in accordance with any Ordinance promulgated regarding adoption of regulations.

d. To review the program budgets and statistical service reports administered by the Department of Commerce.

6.02. *Additional Powers.* The Commission shall have the following additional powers:

a. To assist the Department of Commerce Department in developing Tribal enterprises, by participating in negotiations and conducting proper due diligence activities that may facilitate a business decision before being submitted to Tribal Council for approval.

b. To develop and foster cooperative and constructive working relationships with governments, organizations, and agencies which assistance will benefit the Tribal membership.

c. To promulgate such further regulations as the Commission may deem necessary and desirable to effectuate the powers granted by this Ordinance, subject to the approval of the Tribal Council.

d. To prepare and present to the Tribal Council a proposed budget requesting an appropriation of funds to permit the Commission to carry out the responsibilities of this Ordinance and all Ordinances related to economic development activities for which the Commission has been delegated responsibility.

6.03. *Hearing Body.* The Commission shall act as the hearing body for the activities listed below in accordance with hearing procedures adopted by the Commission.

a. The Commission shall hear:

1. all appeals of denials, suspensions, revocations, or other departmental actions involving any of the developmental functions;

2. all cases where an action by a member has resulted in notice of denial of services issued by the Commerce Department of Commerce;

3. all cases in which the issuance of rules or regulations is alleged to be, unconstitutional, vague, beyond the scope or authority of the Commission, or for other like reasons.

b. The Commission shall issue all decisions in an order that clearly identifies the parties, issues, facts, rule or law and decision.

c. The Commission shall adopt all orders by majority vote and an original shall be presented to the affected party.

d. Decisions of the Commission may be appealed to the Tribal Court on an appeal review of an administrative decision and not as an original hearing.

e. The Department of Commerce may appeal an adverse decision of the Commission only with the approval of the Ogema.

f. The Commission shall maintain all records and filings submitted during this administrative hearing process in a safe and confidential location.